ACT I OF 1871.

Notification by the Government of India, Foreign Department, Judicial, No. 58 J., dated Fort William, 5th April 1872.

His Excellency the Viceroy and Governor-General in Council has been pleased to extend the provisions of Act I of 1871, "The Cattle Tresspass Act," to the Province of Mysore.

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ACT I OF 1871.

RECEIVED THE GOVERNOR-GENERAL'S ASSENT ON 13TH JANUARY 1871.

(*An Act to consolidate and amend the law relating to Trespasses by Cattle.*)

WHEREAS it is expedient to consolidate and amend the law relating to trespasses by cattle; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

Title and extent.

[a] **1.** (1) This Act may be called the Cattle Trespass Act, 1871.

(2) It extends to the whole of the Territories of Mysore except such local areas as the Government of Mysore, by notification in the official Gazette may, from time to time, exclude from its operation.

(3) The Government of Mysore may at any time, by notification in the official Gazette, cancel or vary a notification under sub-section (2).

Repeal of Acts.

[b] **2.** The Acts mentioned in the schedule hereto annexed are repealed.

References to repealed Acts.

References to any of the said Acts in Acts passed subsequently thereto shall be read as if made to this Act.

All pounds established, pound-keepers appointed, and villages determined, under Act III of 1857 (*relating to trespasses by cattle*) shall be deemed to be respectively established, appointed, and determined under this Act].

Interpretation clause.

3. In this Act—

'Officer of Police' includes also village-watchman, and

'Cattle' includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids, [c] and

'Local authority' means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area, and

'Local fund' means any fund under the control or management of a local authority. [c]

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[a] This section was substituted for the original s. 1 by Act VIII of 1892, s. 1.
[b] This section was inadvertently omitted to be repealed by Act VIII of 1892, though inapplicable to Mysore.
[c cc] These words were added to s. 3 by Act VIII of 1892, s. 2.

Sections 4—8.

CHAPTER II.

POUNDS AND POUND-KEEPERS.

Establishment of pounds.

4. Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the [a] Local Government, [a] from time to time directs.

The village by which every pound is to be used shall be determined by the Magistrate of the District.

Control of pounds. Rates of charge for feeding impounded cattle.

5. The pounds shall be under the control of the Magistrate of the District, and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

Appointment of *ex-officio* pound-keepers.

6. [b] The heads of villages shall be *ex-officio* keepers of village pounds:

Provided that, where it is deemed necessary, the Magistrate of the District shall be competent to relieve the Head of the village of his charge and appoint another instead. [b]

Suspension or removal of pound-keepers.

Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

Pound-keepers may hold other offices.

Any pound-keeper may hold simultaneously any other office under Government.

Pound-keepers to be public servants.

Every pound-keeper shall be deemed a public servant within the meaning of the Indian Penal Code.

DUTIES OF POUND-KEEPERS.

To keep registers and furnish returns.

7. Every pound-keeper shall keep such registers and furnish such returns as the [a] Local Government [a] from time to time directs.

To register seizures.

8. When cattle are brought to a pound, the pound-keeper shall enter in his register—

(*a*) the number and description of the animals,

(*b*) the day and hour on and at which they were so brought,

(*c*) the name and residence of the seizer, and

(*d*) the name and residence of the owner, if known,

and shall give the seizer or his agent a copy of the entry.

[a-a] *Sic*: should be "Government of Mysore." Provision for the necessary substitution has by inadvertence been ommitted to be made in Act VIII of 1892.

[b-b] These words were substituted for the original first paragraph and its proviso by Act VIII of 1892, s. 3.

Sections 9—12.

9. The pound-keeper shall take charge of, feed and water the cattle until they are disposed of as hereinafter directed. To take charge of and feed cattle.

CHAPTER III.

IMPOUNDING CATTLE.

10. The cultivator or occupier of any land, Cattle damaging land.

or any person who has advanced cash for the cultivation of the crop or produce on any land,

or the vendee or mortgagee of such crop or produce, or any part thereof,

may seize or cause to be seized any cattle trespassing on such land and doing damage thereto or to any crop or produce thereon, and [a] send them or cause them to be sent within twenty-four hours [a] to the pound established for the village in which the land is situate.

All officers of police shall, when required, aid in preventing (*a*) resistance to such seizures and (*b*) rescues from persons making such seizures. Police to aid seizures.

11. Persons in charge of public roads, pleasure-grounds, plantations, canals, drainage-works, embankments and the like, and officers of police may seize, or cause to be seized, any cattle doing damage to such roads, grounds, plantations, canals, drainage-works, embankments and the like, or the sides or slopes of such roads, canals, drainage-works or embankments, or found straying thereon, Cattle damaging public roads, canals and embankments.

and shall [b] send them or cause them to be sent within twenty-four hours [b] to the nearest pound.

12. For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine according to the following scale:— Fines for cattle impounded.

Elephant	....	....	Two rupees.
Camel or buffalo	....	....	Eight annas.
Horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	....	....	Four annas.
Calf, ass or pig	....	....	Two annas.
Ram, ewe, sheep, lamb, goat or kid	....	....	One anna.

[a-a] These words in s. 10 were substituted for the words "take them or cause them to be taken without unnecessary delay" by Act VIII of 1892, s. 4.

[b-b] These words in s. 11 were substituted for the words "take them without unnecessary delay" by Act VIII of 1892, s. 5.

Sections 13—14.

[a] Provided that, when it appears to the Government of Mysore from the report of a Magistrate of a District, or on the representation of a local authority, that, in any local area subject to the jurisdiction or control of such Magistrate or authority, cattle are habitually allowed to trespass on land and damage crops or other produce thereon, the Government of Mysore may, by notification in the official Gazette, direct that, for every head of cattle of any kind specified therein which may be seized within such local area and impounded as aforesaid, the pound-keeper shall levy such fine, not exceeding double the fine mentioned in the foregoing scale, as may be prescribed in the notification.

All fines so levied shall be sent to the Magistrate of the District through such officer as the [b] Local Government [b] from time to time directs.

List of fines and charges for feeding.

A list of the fines and of the rates of charges for feeding and watering cattle shall be stuck up in a conspicuous place on or near to every pound.

[c] The Government of Mysore may at any time, by notification in the official Gazette, cancel or vary a notification under the proviso to the first paragraph of this section.

CHAPTER IV.

DELIVERY OR SALE OF CATTLE.

Procedure when owner claims the cattle and pays fines and charges.

13. If the owner of impounded cattle or his agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

The owner or his agent on taking back the cattle, shall sign a receipt for them in the register kept by the pound-keeper.

Procedure if cattle be not claimed within a week.

14. If the cattle be not claimed within seven days [or within three days in the case of asses impounded] from the date of their being impounded, the pound-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf.

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[a] This proviso was added to the first paragraph of s. 12 by Act VIII of 1892, s. 6 (1).

[b-b] *Vide* foot-note [a-a] on page 386.

[c] This paragraph was added to s. 12 by Act VIII of 1892, s. 6. (2).

[ ] These words were inserted by section (a) of Act IV of 1939.

Sections 15-16.

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating—

(*a*) the number and description of the cattle,

(*b*) the place where they were seized,

(*c*) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and at the market-place nearest to the place of seizure.

If the cattle be not claimed within seven days [or within four days in the case of asses impounded:] from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time, and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

Provided that if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

Delivery to owner disputing legality of seizure but making deposit.

15. If the owner or his agent appear and refuse to pay the said fines and expenses, on the ground that the seizure was illegal and that the owner is about to make a complaint under section twenty, then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

Procedure when owner refuses or omits to pay the fines and expenses.

16. If the owner or his agent appear, and refuse or omit to pay or (in the case mentioned in section fifteen) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by such officer, at such place and time, and subject to such conditions, as are referred to in section fourteen.

Deduction of fines and expenses.

The fines leviable and the expenses of feeding and watering, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

Delivery of unsold cattle and balance of proceeds.

The remaining cattle and the balance of the purchase-money, if any, shall be delivered to the owner or his agent, together with an account showing—

(*a*) the number of cattle seized,

(*b*) the time during which they have been impounded,

(*c*) the amount of fines and charges incurred,

(*d*) the number of cattle sold,

(*e*) the proceeds of sale, and

(*f*) the manner in which those proceeds have been disposed of.

[ ] These words were inserted by Section (b) of Act IV of 1989.

Sections 17—20.

Receipt.

The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the purchase-money (if any) paid to him according to such account.

Disposal of fines, expenses and surplus proceeds of sale.

17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

The charges for feeding and watering deducted under section sixteen shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section thirteen.

The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and if no claim thereto be preferred and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

Application of fines and unclaimed proceeds of sales.

18. Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle, shall be paid—

(*a*) the salaries allowed to pound-keepers under the orders of the [a] Local Government [a];

(*b*) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act;

and the surplus (if any) shall be applied, under orders of the [a] Local Government [a] to the construction and repair of roads and bridges and to other purposes of public utility.

Officers and pound-keepers not to purchase cattle at sales under Act.

19. No officer of police, or other officer or pound-keeper appointed under the provisions herein contained shall, directly or indirectly, purchase any cattle at a sale under this Act.

Pound-keepers when not to release impounded cattle.

No pound-keeper shall release or deliver any impounded cattle otherwise than in accordance with the former part of this chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

[b] CHAPTER V.

COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION.

Power to make complaints.

20. Any person whose cattle have been seized under this Act, or, having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to

[a-a] *vide* foot-note [a-a] on page 386.

[b] This chapter was substituted for the original chapter V by Act VIII of 1892, s. 7.

the Magistrate of the District, or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

Procedure on complaint.

21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

Compensation for illegal seizure or detention.

22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle, together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle ;

Release of cattle.

and, if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

Recovery of compensation.

23. The compensation, fines and expenses mentioned in section twenty-two may be recovered as if they were fines imposed by the Magistrate.

CHAPTER VI.

PENALTIES.

Penalty for forcibly opposing the seizure of cattle or rescuing the same.

24. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act,

and whoever rescues the same after seizure, either from a pound, or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act,

shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

Sections 25—28.

Recovery of penalty for mischief committed by causing cattle to trespass.

25. Any fine imposed [*a*] under the next following section or [a] for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

Penalty for damage caused to land or crops or public roads by pigs.

26. Any owner or keeper of pigs, who through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

[*b*] The Government of Mysore by notification in the official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words 'fifty rupees' were substituted for the words 'ten rupees' or as if there were both such reference and such substitution.

[*c*] The Government of Mysore may, at any time, by notification in the official Gazette, cancel or vary a notification under this section.

Penalty on pound-keeper failing to perform duties.

27. Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of section nineteen, or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty rupees.

Such fines may be recovered by deductions from the pound-keeper's salary

Application of fines recovered under section 25, 26, or 27.

28 All fines recovered under section twenty-five, section twenty-six or section twenty-seven may be appropriated in whole or in part as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

[a-a] These words in s. 25 were inserted by Act VIII of 1892, s. 8.
[b] This paragraph was added to s. 26 by Act VIII of 1892, s. 9.
[c] This paragraph was added to s. 26 by Act VIII of 1892, s. 9.

Sections 29-31.

CHAPTER VII.

SUITS FOR COMPENSATION.

Saving of right to sue for compensation.

29. Nothing herein contained prohibits any person whose crops or other produce of land have been damaged by trespass of cattle from suing for compensation in any competent Court.

Set-off.

30. Any compensation paid to such person under this Act by order of the convicting Magistrate shall be set-off and deducted from any sum claimed by or awarded to him as compensation in such suit.

[a] CHAPTER VIII.

SUPPLEMENTAL.

Power for Government of Mysore to transfer certain functions to local authority and direct credit of surplus receipts to local fund.

31. The Government of Mysore may, from time to time, by notification in the official Gazette—

(*a*) transfer to any local authority, within any part of the territories under its administration in which this Act is in operation, all or any of the functions of the Government of Mysore or the Magistrate of the District under this Act, within the local area subject to the jurisdiction of the local authority, or

(*b*) direct that the whole or any part of the surplus accruing in any district under section eighteen of this Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district,

and may, from time to time, by notification in the official Gazette, cancel or vary any notification under this section.

[b] [*SCHEDULE.*]

(*See section* 2.)

Number and year	Title of Act
III of 1857 ...	An Act relating to trespasses by cattle.
V of 1860 ...	An Act to amend Act III of 1857 (relating to trespasses by cattle).
XXII of 1861 ...	An Act to amend Act III of 1857 (relating to trespasses by cattle).

[a] Chapter VIII was added by Act VIII of 1892, s. 10.

[b] This schedule was inadvertently omitted to be repealed by Act VIII of 1892. *Vide* note (b) on page 385.